

PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP

1285 AVENUE OF THE AMERICAS
NEW YORK, NEW YORK 10019-6064

TELEPHONE (212) 373-3000

LLOYD K. GARRISON (1946-1991)
RANDOLPH E. PAUL (1946-1956)
SIMON H. RIFKIND (1950-1995)
LOUIS S. WEISS (1927-1950)
JOHN F. WHARTON (1927-1977)UNIT 3601, OFFICE TOWER A, BEIJING FORTUNE PLAZA
NO. 7 DONGSANHUAN ZHONGLU
CHAOYANG DISTRICT
BEIJING 100020
PEOPLE'S REPUBLIC OF CHINA
TELEPHONE (86-10) 5828-630012TH FLOOR, HONG KONG CLUB BUILDING
3A CHATER ROAD, CENTRAL
HONG KONG
TELEPHONE (852) 2846-0300ALDER CASTLE
10 NOBLE STREET
LONDON EC2V 7JU, U.K.
TELEPHONE (44 20) 7367 1600FUKOKU SEIMEI BUILDING
2-2 UCHISAIWAICHO 2-CHOME
CHIYODA-KU, TOKYO 100-0011, JAPAN
TELEPHONE (81-3) 3597-8101TORONTO-DOMINION CENTRE
77 KING STREET WEST, SUITE 3100
P.O. BOX 226
TORONTO, ONTARIO M5K 1J3
TELEPHONE (416) 504-05202001 K STREET, NW
WASHINGTON, DC 20006-1047
TELEPHONE (202) 223-7300500 DELAWARE AVENUE, SUITE 200
POST OFFICE BOX 32
WILMINGTON, DE 19899-0032
TELEPHONE (302) 655-4410MATTHEW W. ABBOTT
ALLAN J. ARFA
ROBERT A. ATKINS
DAVID J. BALL
JOHN F. BAUGHMAN
LYNN B. BAYARD
DANIEL J. BELLER
CRAIG A. BENSON
MITCHELL L. BERG
MARK S. BERGMAN
BRUCE BIRENBOIM
H. CHRISTOPHER BOEHNING
ANGELO BONVINO
JAMES L. BROCHIN
RICHARD J. BRONSTEIN
DAVID W. BROWN
SUSANNA M. BUERGEL
PATRICK E. CAMPBELL*
JESSICA S. CAREY
JEANETTE K. CHAN
YVONNE Y. CHAN
LEWIS R. CLAYTON
JAY COHEN
KELLEY A. CORNISH
CHRISTOPHER J. CUMMINGS
CHARLES E. DAVIDOW
DOUGLAS R. DAVIS
THOMAS V. DE LA BASTIDE III
ARIEL J. DECKELBAUM
ALICE BELISLE EATON
ANDREW J. EHRLICH
GREGORY A. EZRING
LESLIE GORDON FAGEN
MARC FALCONE
ANDREW C. FINCH
BRAD J. FINKELSTEIN
ROBERTO FINZI
PETER E. FISCH
ROBERT C. FLEDER
MICHAEL FLUMENBAUM
ANDREW J. FOLEY
HARRIS B. FREIDUS
MANUEL S. FREY
ANDREW L. GAINES
KENNETH A. GALLO
MICHAEL E. GERTZMAN
PAUL D. GINSBERG
ADAM M. GIVERTZ
SALVATORE GOGLIOMELLA
ROBERT D. GOLDBAUM
NEIL GOLDMAN
ERIC S. GOLDSTEIN
ERIC GOODISON
CHARLES H. GOOGE, JR.
ANDREW G. GORDON
UDI GROFMAN
NICHOLAS GROOMBRIDGE
BRUCE A. GUTENPLAN
GAINES GWATHMEY, III
ALAN S. HALPERIN
JUSTIN G. HAMILL
CLAUDIA HAMMERMAN
GERARD E. HARPER
BRIAN S. HERMANN
ROBERT M. HIRSH
MICHAEL HIRSCHMAN
MICHAEL S. HONG
JOYCE S. HUANG
DAVID S. HUNTINGTON
LORETTA A. IPPOLITOJEH C. JOHNSON
MEREDITH J. KANE
ROBERTA A. KAPLAN
BRAD S. KARP
JOHN C. KENNEDY
ALAN W. KORNBERG
DANIEL J. KRAMER
DAVID K. LAKHDHIR
STEPHEN P. LAMB*
JOHN E. LANGE
DANIEL J. LEFFELL
XIAOYU GREG LIU
JEFFREY D. MARELL
MARCO V. MASOTTI
EDWIN S. MAYNARD
DAVID W. MAYO
ELIZABETH R. MCCOLM
MARK F. MENDELSON
WILLIAM B. MICHAEL
TOBY S. MYERSON
CATHERINE NYARADY
JOHN J. O'NEIL
ALEX YOUNG K. OH
BRAD R. OKUN
KELLEY D. PARKER
MARC E. PERLMUTTER
VALERIE E. RADWANER
CARL REISNER
WALTER G. RICCIARDI
WALTER RIEMAN
RICHARD A. ROSEN
ANDREW N. ROSENBERG
JACQUELINE P. RUBIN
RAPHAEL M. RUSSO
JEFFREY D. SAFERSTEIN
JEFFREY B. SAMUELS
DALE M. SARRO
TERRY V. SCHIMEK
KENNETH M. SCHNEIDER
ROBERT B. SCHUMER
JAMES H. SCHWAB
JOHN M. SCOTT
STEPHEN J. SHIMSHAK
DAVID R. SIGULAR
MOSES SILVERMAN
STEVEN SIMKIN
JOSEPH J. SIMONS
MARILYN SOBEL
AUDRA J. SOLOWAY
TARUN M. STEWART
ERIC ALAN STONE
AIDAN SYNNOTT
ROBYN F. TARNOWSKY
MONICA K. THURMOND
DANIEL J. TOAL
LIZA M. VELAZQUEZ
MARIA T. VULLO
ALEXANDRA M. WALSH*
LAWRENCE G. WEE
THEODORE V. WELLS, JR.
BETH A. WILKINSON
STEVEN J. WILLIAMS
LAWRENCE I. WITDORCHIC
JULIA MASON WOOD
JORDAN E. YARETT
KAYE N. YOSHINO
TONG YU
TRACY ZACCONE
T. ROBERT ZOCHOWSKI, JR.

*NOT ADMITTED TO THE NEW YORK BAR

WRITER'S DIRECT DIAL NUMBER

(212) 373-3163

WRITER'S DIRECT FACSIMILE

(212) 492-0163

WRITER'S DIRECT E-MAIL ADDRESS

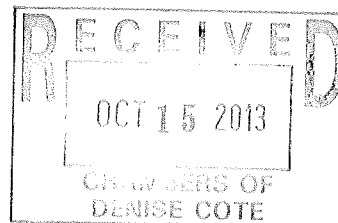
jaycohen@paulweiss.com

USDC SDNY
DOCUMENT
ELECTRONICALLY
DOC #

October 15, 2013

By ECFHon. Denise Cote
United States District Judge
United States Courthouse
500 Pearl Street, Courtroom 11B
New York, New York 10007-1312
CoteNYSDCChambers@nysd.uscourts.gov

MEMO ENDORSED

*In re* Petition of Pandora Media, Inc., 12 Civ. 8035 (DLC)
related to *U.S. v. Am. Soc'y of Composers, Authors and Publishers*, 41 Civ. 1395 (DLC)

Dear Judge Cote:

We represent the American Society of Composers, Authors and Publishers ("ASCAP") in the above-captioned matter. On behalf of both parties and with Pandora's consent, I write, pursuant to the Court's Individual Practices for Civil Cases, to apprise the Court of the status of pretrial proceedings and to request a modest extension of the deadline by which the parties will file the Joint Pretrial Order.

As Your Honor will recall, this proceeding will determine final license fees for Pandora, the largest Internet radio service in the country. The Pretrial Scheduling Order entered by the Court on August 2, 2013 (the "August 2 Order") requires the Joint Pretrial Order to be filed by November 4, 2013 and the case to be ready for trial by December 4, 2013. The parties have been working hard and cooperatively to meet these deadlines. The parties have substantially completed their document productions, but are still in the process of gathering documents from third parties. The parties have also already completed more than 20 fact depositions, with at least two more scheduled to take place this month. The parties have also exchanged initial expert reports (with

PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP

Honorable Denise Cote

2

rebuttal reports due to be exchanged on October 21), and expect to take eight expert depositions after the submission of the rebuttal reports.

Despite the parties' best efforts, expert discovery will not be completed until November 2, which is only two days before the Joint Pretrial Order is due to be finalized and filed. This timing will make it challenging for the parties' experts to finalize their witness statements. Given the importance of expert testimony in this matter, we believe that a modest amount of additional time is required to allow the parties to refine their rate proposals and sharpen and narrow the issues to be tried.

We are aware, of course, of the Court's determination to keep cases on track for trial. As a result, the parties request only an eight day extension of the November 4 deadline for the Joint Pretrial Order, with the other dates in the August 2 Order—including the date by which the parties will be ready for trial—to be unaffected.¹ A proposed amended scheduling order reflecting this change is enclosed. Neither party anticipates any further request for an adjournment and each is committed to concluding this trial in December.

To that end, the parties also seek clarification in advance of the final pretrial conference as to whether the Court intends to start the trial on December 4, and if not, on what date the Court anticipates beginning the trial.

The parties would be happy to meet with the Court concerning this request or to provide any additional information the Court may require.

Respectfully submitted,

Jay Cohen

Enclosure

cc: All counsel (via email)

In the event that the Pretrial Order documents are not served on 11/4/13, the Pretrial Order and Daubert motions may be served on 11/15/13 and the trial will begin on 1/21/14. The parties shall advise the Court by 10/18/13 of their choice.

¹ Because the deadline in the August 2 Order for filing *in limine* and *Daubert* motions falls on Veterans Day (November 11), which we understand is a Court holiday, we also propose moving that deadline to the following day, November 12.

Denise Cote
10/15/13